

Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005-4018
(202) 628-4888
hrc@concentric.net

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

| | | |
|----------------------------|---|-----------------------|
| In The Matter Of: |) | |
| |) | |
| RONALD BRASHER, |) | EB Docket No.: 00-156 |
| |) | |
| Licensee of Private Land |) | |
| Mobile Stations WPLQ202, |) | |
| KCG967, WPLD495, WPKH771, |) | |
| WPKI739, WPKI733, WPKI707, |) | |
| WIL990, WPLQ475, WPLY658 |) | |
| WPKY903, WPKY901, WPLZ553, |) | |
| WPKI762, and WPDU262, |) | |
| Dallas/Fort Worth, Texas, |) | |
| et al. |) | |

Room TW-A-363
FCC
445 12th Street, N.W.
Washington, D.C. 20554

Wednesday,
March 7, 2001

The parties met, pursuant to the adjournment by
the Judge, at 9:00 a.m.

BEFORE: HONORABLE ARTHUR I. STEINBERG
Administrative Law Judge

APPEARANCES:

On Behalf of Ronald Brasher, Patricia Brasher,
Estate of O. C. Brasher, Metroplex Two Way Radio,
DLB Enterprises:

MARK W. ROMNEY, Esquire
Vial, Hamilton, Koch & Knox, L.L.P.
1717 Main Street, Suite 4400
Dallas, TX 75201
(214) 712-4400

Heritage Reporting Corporation
(202) 628-4888

APPEARANCES: (Continued)

On Behalf of Ronald Brasher, Patricia Brasher,
Estate of O. C. Brasher, Metroplex Two Way Radio,
DLB Enterprises:

ROBERT H. SCHWANINGER, Esquire
MICHAEL L. HIGGS, JR., Esquire
Schwaninger & Associates, P.C.
1331 H Street, N.W., Suite 500
Washington, D.C. 20005
(202) 347-8580

On Behalf of David and Diane Brasher:

K. LAWSON PEDIGO, Esquire
Fulbright & Jaworski, L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, TX 75201
(214) 855-8184

RONNIE D. WILSON, Esquire
100 North Central Expressway, Suite 1211
Richardson, TX 75080
(972) 699-0441

On Behalf of the Federal Communications
Commission, Enforcement Bureau:

JUDY LANCASTER, Esquire
Federal Communications Commission
Enforcement Bureau
445 12th Street, S.W.
Washington, D.C. 20554
(202) 418-7584

WILLIAM H. KNOWLES-KELLETT, Esquire
Federal Communications Commission
Enforcement Bureau
1270 Fairfield Road
Gettysburg, PA 17325
(717) 338-2505

APPEARANCES: (Continued)

On Behalf of Witness Jim Sumpter:

JOHN J. MCVEIGH, Esquire
12101 Blue Paper Trail
Columbia, MD 21044-2786
(301) 596-1655

Heritage Reporting Corporation
(202) 628-4888

1621

I N D E X

| <u>WITNESSES:</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> | <u>VOIR DIRE</u> |
|-------------------|---------------|----------------------|-----------------|----------------|----------------------|
| Axel J. Black III | 1622 | 1672 1692 | 1715 | 1733 | |
| Jim Sumpter | 1737 | 1824 1894 1969 | 1962 1978 | 1966 1976 | |

E X H I B I T S

| | <u>IDENTIFIED</u> | <u>RECEIVED</u> | <u>REJECTED</u> |
|------------------------------|-------------------|-----------------|-----------------|
| <u>Enforcement Bureau's:</u> | | | |
| 66 | (Prev.) | 1626 | -- |
| 10 | (Prev.) | 1699 | -- |
| 13 | (Prev.) | 1729 | -- |
| 70 | 1800 | | -- |

P R O C E E D I N G S

(9:00 a.m.)

JUDGE STEINBERG: Mr. Black, please raise your
right hand.

Whereupon,

AXEL J. BLACK III

having been duly sworn, was called as a witness
and was examined and testified as follows:

JUDGE STEINBERG: Please be seated.

Do you know that you are a soap opera character?

THE WITNESS: Yes, I do.

JUDGE STEINBERG: And you're not that John Black?

THE WITNESS: I wish I was.

DIRECT EXAMINATION

BY MR. KNOWLES-KELLETT:

Q Good morning.

Could you state your full name for the record?

A My full name is Axel John Black III.

JUDGE STEINBERG: Spell Axel for me?

THE WITNESS: A-X-E-L.

BY MR. KNOWLES-KELLETT:

Q Okay, and your address?

A Home address is 5203 8th Street, Lubbock, Texas.

ZIP code is 79416.

Q And your work address?

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1 A Work address is 8212 Ithaca Avenue, that's spelled
2 I-T-H-A-C-A, Suite 15, in Lubbock, Texas, and the ZIP code
3 is 79423.

4 Q Okay. And where are you employed?

5 A Spectrum License Consultants, Incorporated.

6 Q Okay. How many people work at Spectrum?

7 A Just myself.

8 Q Okay. What services did -- please describe the
9 services that Spectrum performs?

10 A Spectrum performs application preparation
11 searches. We do, or I do some frequency searches. I do
12 some technical services in the way of providing contour
13 studies, propagation studies, various technical calculations
14 like HAAT, ERP, et cetera, and that's pretty much it.

15 Q Okay. What services has Spectrum performed for
16 Ron Brasher and DLB?

17 JUDGE STEINBERG: Let me just ask you. Are you a
18 licensed professional engineer?

19 THE WITNESS: No, I am not.

20 JUDGE STEINBERG: And do you have technical
21 training in --

22 THE WITNESS: Yes, I do have technical training,
23 but I am not a licensed engineer.

24 JUDGE STEINBERG: Okay. What type of technical
25 training do you have to do --

1 THE WITNESS: I started in the industry in 1960,
2 and just the school of hard knocks, if you will.

3 JUDGE STEINBERG: Okay.

4 BY MR. KNOWLES-KELLETT:

5 Q What services has Spectrum performed for Ron
6 Brasher and DLB?

7 A Primarily license application preparation, and
8 when I say "application preparation," I also include with
9 Ron Brasher or any other client that I also do follow-
10 through with the frequency coordinators. I interface with
11 them if there is any questions on anybody's application, and
12 I also interface with the Federal Communications Commission
13 should they have a question on an application that I have
14 prepared, and that's pretty much what I did for Ron.

15 I think over the years there has been a time or
16 two when I did a frequency search. I think at one point I
17 may have done a propagation study for him.

18 Q Okay, I would like you to turn to -- the book has
19 a lot of tabs, so I would like you to turn to Exhibit 66.

20 JUDGE STEINBERG: It's probably near the end.

21 THE WITNESS: Okay.

22 JUDGE STEINBERG: You might just flip the book
23 over.

24 THE WITNESS: It might be easier.

25 JUDGE STEINBERG: Even No. 1 sometimes doesn't

1 seem to be at the beginning.

2 THE WITNESS: Right. Okay, there is 64.

3 JUDGE STEINBERG: I think it's the very last one.

4 THE WITNESS: It says 67.

5 JUDGE STEINBERG: Oh, I see.

6 THE WITNESS: Sixty-six. Sorry.

7 JUDGE STEINBERG: The put the other end in --

8 THE WITNESS: Okay. All right.

9 JUDGE STEINBERG: Sixty-six is these five pages.

10 THE WITNESS: Okay.

11 JUDGE STEINBERG: Let me just explain that in the
12 binder that the witness is looking at, I believe for all the
13 Bureau's exhibits, but the last tab number is 66, so I
14 didn't want the witness to get confused, 67 or 66, and I was
15 just pointing out which pages behind the tab were Exhibit
16 66.

17 BY MR. KNOWLES-KELLETT:

18 Q Can you identify that document?

19 A Yes. That was received by me from Metroplex Two
20 Way Radio via fax.

21 Q Is that --

22 A That's the first two pages.

23 Q First two pages.

24 And the third page?

25 A The third page is my handwriting and that was

1 based on a telephone call between Ron Brasher and I.

2 Q Okay.

3 A And the fourth and fifth pages are actually
4 duplicates of the first and second pages, and I've written
5 in some PCIA control numbers. That's what those numbers
6 are.

7 Q Okay.

8 MR. KNOWLES-KELLETT: At this time, Your Honor, I
9 would like to move the admission of Exhibit 66.

10 JUDGE STEINBERG: Any objection?

11 MR. ROMNEY: No objection, Your Honor.

12 JUDGE STEINBERG: Exhibit 66 is received.

13 (The document referred to,
14 previously identified as
15 Enforcement Bureau Exhibit No.
16 66, was received in evidence.)

17 BY MR. KNOWLES-KELLETT:

18 Q Were you aware that there came a time when DLB
19 wanted to expand its operations to include coverage in
20 Allen, Texas?

21 A Yes.

22 Q Okay. And can you explain -- did you have
23 discussions with Ron Brasher in this regard?

24 A Well, it -- yes, I think we probably discussed it
25 a time or two. Like a lot of other clients that I deal

1 with, Allen happens to be probably one of the more
2 significant sites in the Dallas/Fort Worth metropolitan
3 area, and there was a time when he decided to add coverage
4 in that area. I think there is some growth in that area, so
5 that would be a logical thing to do.

6 Q Okay. Do you recall when it was that he wanted to
7 start adding coverage there?

8 A No, I don't offhand, not without looking at my
9 records.

10 Q Okay. With respect to Exhibit 66, do you recall
11 having discussions with Ron Brasher about this?

12 A Yes.

13 Q Okay, would you describe those discussions?

14 A All right. The first two pages were received as a
15 fax from Ron Brasher. The third page is related to this.
16 Ron and I had a telephone call and he requested that I file
17 applications as listed on pages 1 and 2, and this was where
18 we were matching up the names and frequencies.

19 Q Okay. How did you come up with the frequencies on
20 the third page?

21 A I'm not really sure without looking at my records.
22 It's possible I may have done frequency searches, and helped
23 him find those frequencies. But I just off the top of my
24 head don't remember.

25 Q Okay. Are those records back in Texas?

1 A Yes, they would be.

2 Q Okay.

3 JUDGE STEINBERG: With respect to page 3, the
4 numbers are the frequencies and they are on the left.

5 THE WITNESS: Mm-hmm.

6 JUDGE STEINBERG: And the names -- you have to
7 answer yes and no.

8 MR. KNOWLES-KELLETT: This is being tape recorded.

9 THE WITNESS: Yes. All right. Yes.

10 JUDGE STEINBERG: Okay, everybody does it and
11 we'll try to remind you.

12 And then in the right, those were the names and
13 which applications you were going to file for those
14 frequencies?

15 THE WITNESS: Yes.

16 JUDGE STEINBERG: What the EDI at the top mean?

17 THE WITNESS: That indicates electronic filing.

18 JUDGE STEINBERG: Okay. And the numbers one
19 through 10, what do those represent?

20 THE WITNESS: Those would correspond to number one
21 through 10 on pages 1 and 2.

22 JUDGE STEINBERG: And you just arbitrarily
23 numbered them for ease of reference for yourself?

24 THE WITNESS: Just for reference, yeah. Yes, yes.

25 JUDGE STEINBERG: Are you a lefty?

1 THE WITNESS: Yes.

2 JUDGE STEINBERG: You're left-handed?

3 THE WITNESS: Yes.

4 JUDGE STEINBERG: Okay. Score one for Mr. Romney
5 then.

6 Do you remember at all anything about how DLB got
7 484.2875 and Metroplex got another number? Was there any
8 rhyme or reason to it that you can remember?

9 THE WITNESS: Ron requested filing as per that
10 sequence.

11 JUDGE STEINBERG: Okay, so --

12 THE WITNESS: I don't know if there was a reason.

13 JUDGE STEINBERG: Okay. But that's what -- your
14 recollection is that these were the frequencies that Ron
15 wanted in those particular names?

16 THE WITNESS: These were the frequencies that he
17 wanted in these particular names. These frequencies came,
18 if my memory serves me correctly, Ron knew probably of
19 several frequencies that might be available and we did
20 searches on them to determine if those frequencies were
21 available. And having determined that, being available
22 meaning that there were no co-channel licensees within the
23 prescribed limits, et cetera, et cetera. So he was -- you
24 know, those channels were open.

25 JUDGE STEINBERG: Okay. Did you have anything to

1 do with -- again to the best of your recollection. I know
2 as we go on things are going to start coming back to you.

3 THE WITNESS: Yes.

4 JUDGE STEINBERG: I would hope.

5 THE WITNESS: Yes.

6 JUDGE STEINBERG: And if they do, if you can -- if
7 you can remember more precisely 15 minutes from now
8 something that might answer a question that was asked 15
9 minutes go, if you would just say, "I remember something
10 differently."

11 THE WITNESS: Yes.

12 JUDGE STEINBERG: Because what we really want here
13 is your best recollection.

14 Do you remember having anything to do with helping
15 Ron determining what frequencies were available in Dallas,
16 or in that area, the Allen area?

17 THE WITNESS: Yes.

18 JUDGE STEINBERG: And what do you remember about
19 that?

20 THE WITNESS: I believe that I probably did
21 searches, frequency searches using on-line databases,
22 probably using the services of ISI who was a company that
23 did provide third party access to the FCC databases. And I
24 more than likely used their database and came up with these
25 frequencies.

1 Now, it may be that in certain cases -- I remember
2 that Ron used to also, you know, look for frequencies that
3 might be available, doing basically the same type of
4 searching I was doing, and occasionally he would call and
5 say, "I think that this frequency may be available. Can you
6 check it and see if it really is?"

7 So this list of 10 frequencies, if my memory
8 serves me correctly, was a joint effort of us looking for
9 these frequencies.

10 JUDGE STEINBERG: Okay.

11 THE WITNESS: Or let me modify that. Not looking
12 for these frequencies, but looking for 10 frequencies, and
13 this is what we came up with.

14 JUDGE STEINBERG: Thank you.

15 BY MR. KNOWLES-KELLETT:

16 Q A couple of things. One, you said "these
17 frequencies were open." When you mean open, they -- you
18 could get exclusivity on them?

19 A Yes, that would mean there were no co-channel
20 licensees or applications within a 40-mile radius of the
21 proposed location.

22 Q Okay. And could you explain what exclusivity on
23 these channels is?

24 A T-band, the 470 to 512 megahertz, exclusivity is
25 pretty much like it is in 800 megahertz in that if you -- if

1 you meet the prescribed loading, you secure exclusivity on a
2 channel, thereby excluding anyone else within the prescribed
3 radius from filing an application on that channel.

4 That in technical terms means that the system is
5 probably going to operate a lot more efficiently. It's a
6 better system when you have exclusive channels because you
7 don't have so many factors to be considered like monitoring
8 for co-channel activity, et cetera.

9 Q Okay. Let me see if I got this right. By co-
10 channel -- take, for example, if we had a taxicab company
11 with 40 units on the channel. If they just had 40 units and
12 some other taxicab company could come along and get on the
13 channel as well; is that correct?

14 A Yes.

15 Q Okay. But if they had the full complement to get
16 exclusivity, which if I'm correct it's 90 in this service?

17 A It's 90 in this service at this time. At the time
18 that these were filed it may have been 70. There have been
19 some changes in the loading, but I believe currently on
20 business frequencies it is 90 units.

21 Q Okay.

22 A No, if you have 40 units, then someone else could
23 apply for 50.

24 Q Okay. So the number is really not important so
25 much but you could -- you have to share the channel with

1 another 50 taxicabs.

2 A Correct.

3 Q Where if you had 90, only your taxicabs, and so if
4 you had somebody getting out of line on the channel, you
5 would be able to -- it would be your taxicab driver and you
6 could do something about it?

7 A Correct.

8 Q Okay.

9 (Pause.)

10 BY MR. KNOWLES-KELLETT:

11 Q So as far as you know, these channels were
12 completely open, no licensees on them at that time?

13 A As far as I remember, that is correct.

14 Q Okay. And DLB had a need for 10 frequencies? Do
15 you know?

16 A I don't really know what his needs were. He
17 requested that I file those applications for those channels.

18 Q Okay. Do you see in the first two page of Exhibit
19 66, he apparently sent you nine names and addresses?

20 A That's correct.

21 Q And then you added a tenth at the top of the first
22 page, Metroplex?

23 A That's correct, and I don't -- I don't really
24 remember why we added Metroplex as the number one. More
25 than likely Ron knew that I had all of the billing

1 information, et cetera, et cetera, on Metroplex Radio.

2 Q Okay. Looking at the third page, there are
3 actually 11 there. Do you see that? Two number ones and
4 then a one through 10?

5 A That's correct.

6 Q Do you have any recollection if DLB already had
7 that first channel?

8 A I don't have any recollection.

9 Q Okay. Going to the last two pages, there is no
10 PCIA control number for the DLB application.

11 Does that refresh your recollection? It doesn't,
12 does it?

13 JUDGE STEINBERG: Well, he --

14 THE WITNESS: No, it does not.

15 JUDGE STEINBERG: Okay.

16 BY MR. KNOWLES-KELLETT:

17 Q Did you have any discussions with anyone else at
18 DLB regarding this, these 10 applications, 10 or 11
19 applications?

20 A Not to my knowledge.

21 Q Okay. Did you ever discuss DLB matters with
22 anybody else at DLB?

23 A Rarely, if ever.

24 Q Okay.

25 A Ninety-nine percent of all my dealings with

1 Metroplex were with Ron. There may have been an occasion
2 over the last six or seven years, whatever period of time
3 that I've dealt with Ron, where I may have -- I may have
4 asked his wife, Pat, a question.

5 Bear in mind that I also have done applications
6 for some of Ron's customers that -- situations where someone
7 would contact Ron and say, "We need help in getting a
8 license." And he would refer those people to me and I may
9 have from time to time talked to Ron's wife, Pat, or to
10 David, asking a simple question. Maybe do you know what the
11 federal tax I.D. number is for the University of Texas, or
12 something of that nature.

13 But as far as any application preparation
14 licensees, frequencies, all of that sort of thing, all of
15 that was with Ron.

16 Q Okay. Do you remember around this time discussing
17 anything about PCI rule that you could only coordinate one
18 application in one entity's name at a time?

19 A Probably. There were some changes over the years.
20 PCIA at one time, I think, would allow a person to file for
21 five channels of T-band 470 to 512, and I think at some
22 point in time, and I don't remember exactly when that was,
23 they did change that and you could only file for one channel
24 at a time, and I believe this is correct, you could file for
25 one channel at a time, and once you had constructed and

1 loaded that channel, you could apply for additional
2 channels.

3 I think there was an exception that if you were an
4 existing licensee in the T-band area, I believe they would
5 allow you to file for five at a time. But if it was a new
6 applicant, it was one at a time.

7 JUDGE STEINBERG: You can't put a time frame on
8 any of this?

9 THE WITNESS: That probably --

10 JUDGE STEINBERG: Why don't I suggest that --
11 well, just re-ask the question a little differently. Well,
12 let me see whether I understand you first.

13 What's PCIA?

14 A PCIA is a frequency coordinator. They used to be
15 known as NABER, the National Association of Business and
16 Educational Radio. And then early in the nineties they
17 merged with PCIA, another trade organization that was more
18 into paging, and PCS technology, but they still are a
19 frequency coordinator.

20 JUDGE STEINBERG: So let's assume we're talking in
21 the 1995-1996 time frame.

22 THE WITNESS: Okay.

23 JUDGE STEINBERG: If you can recall during that
24 time frame, and let me just -- are we going to have PCIA
25 witnesses that are going to go over this?

1 MR. KNOWLES-KELLETT: Yes.

2 MS. LANCASTER: We can have them go over it, Your
3 Honor.

4 JUDGE STEINBERG: Okay. But let me ask you, from
5 your own -- your own -- okay, you're not affiliated or
6 associated with PCIA, correct?

7 THE WITNESS: No, I am not.

8 JUDGE STEINBERG: You work for yourself and do
9 your own thing?

10 THE WITNESS: Correct.

11 JUDGE STEINBERG: And the applications that you
12 prepare, somebody submits them to PCIA?

13 THE WITNESS: Correct.

14 JUDGE STEINBERG: Whether it's you -- I mean, do
15 you sometimes submit them?

16 THE WITNESS: In some cases I -- there are two
17 ways that I operate. Number one would be that I prepare an
18 application. It's sent out to the client. At that point
19 the application is signed and it's returned to me with fees,
20 and then I in turn submit that to the frequency coordinator,
21 or directly to the FCC as the case may be. There are a few
22 applications that don't require frequency coordination.

23 And the other thing that may be happen, depending
24 on a number of circumstances, I may prepare the application
25 and the client signs it or has it signed, then he submits it

1 directly to the coordinator.

2 JUDGE STEINBERG: Okay. Around the time period
3 that these application in Exhibit 66, the ones in the names
4 listed in Exhibit 66 were being prepared and submitted, can
5 you recall what PCIA's rules were with respect to you're
6 talking about one application or five applications? Can you
7 remember what they were at that time period?

8 THE WITNESS: As far as the number of frequencies,
9 is that what you are asking?

10 JUDGE STEINBERG: Or the number of -- you're
11 talking about number of channels.

12 THE WITNESS: Yes.

13 JUDGE STEINBERG: Is that the same as frequencies?

14 THE WITNESS: Yes.

15 JUDGE STEINBERG: Okay. Because I'm -- assume I
16 am a big idiot and don't know anything about this, which is
17 pretty close to the truth. You know, what were the PICA's,
18 and I think you referred to them as rules or policies,
19 that's --

20 THE WITNESS: It was probably -- it was probably
21 in about '96 -- '96, possibly '97, that they did tighten
22 their rules on the number of applications that you -- not
23 the number of applications, the number of frequencies that
24 you could file under a given name at a given point in time.

25 JUDGE STEINBERG: Okay.

1 THE WITNESS: And I believe that maybe up until
2 then, I believe you could file for five frequencies at a
3 time, but then they changed that and said that if you were a
4 new applicant, you could only file for one frequency at a
5 time or channel.

6 JUDGE STEINBERG: Okay.

7 BY MR. KNOWLES-KELLETT:

8 Q Do you recall any discussions -- do you know
9 whether the PCIA policy implements a Commission rule? Are
10 you familiar with the Commission rule --

11 MR. ROMNEY: Excuse me. I didn't hear the
12 question.

13 MR. KNOWLES-KELLETT: Is he familiar with the
14 Commission rule that's being implemented by the PCIA.

15 JUDGE STEINBERG: That wasn't the question. The
16 question was are you familiar with whether the PCIA policy
17 implemented a Commission rule.

18 MR. KNOWLES-KELLETT: That's my question.

19 THE WITNESS: Am I familiar with PCIA's policy
20 implementing a Commission rule?

21 BY MR. KNOWLES-KELLETT:

22 Q Implemented a Commission rule.

23 A No, I'm not actually familiar with that. And I'd
24 like to add that this is something that is very confusing
25 for a lot of people in this industry, including consultants

1 like myself and what have you, as to really whose rules do
2 we follow, the FCC's rules or the coordinator's.

3 Q So you are not -- are you generally familiar with
4 the Part 90 rules?

5 A Yes. I did my best to keep up with them.

6 Q Okay.

7 (Pause.)

8 BY MR. KNOWLES-KELLETT:

9 Q Were you familiar with the FCC rule in Part 90 at
10 that time, I believe it was 90.313, regarding how many
11 applications could be submitted in T-band?

12 A Did it regard number of applications or number of
13 frequencies?

14 Q The -- I just want to know if you are familiar
15 with the rule.

16 A I'm sure that, yes, I did look at the rules.

17 Q Okay.

18 A T-band 470 to 512 has several rules that are a
19 little bit unique as compared to other portions of the
20 spectrum. So I'm quite sure that, yes, I was familiar with
21 whatever the rule was at that time.

22 Q Okay.

23 JUDGE STEINBERG: But you just don't recall what
24 that rule was --

25 THE WITNESS: No, Your Honor, I don't.

1 JUDGE STEINBERG: -- today?

2 THE WITNESS: I don't recall today.

3 JUDGE STEINBERG: Now, if we were still at L
4 Street, I could go up to my office and --

5 MS. LANCASTER: We have --

6 JUDGE STEINBERG: -- get a copy of the rules that
7 were in effect in '95 and '96, but when we moved over there
8 there wasn't room for that, so we --

9 (Laughter.)

10 MS. LANCASTER: I'm going to go try to find a
11 copy, Your Honor.

12 JUDGE STEINBERG: Good luck.

13 (Pause.)

14 JUDGE STEINBERG: Mr. Kellett, what was the rule
15 number that you referred the witness to?

16 MR. KNOWLES-KELLETT: 90.313.

17 JUDGE STEINBERG: Nine-0 point?

18 MR. KNOWLES-KELLETT: Three, one, three.

19 JUDGE STEINBERG: Three, one, three.

20 THE WITNESS: Do you have a current copy of that
21 rule available?

22 JUDGE STEINBERG: Yes.

23 (Pause.)

24 MR. ROMNEY: Request permission to approach, Your
25 Honor.

1 JUDGE STEINBERG: Okay, according to --

2 THE WITNESS: Thank you.

3 JUDGE STEINBERG: Do you need to see the rule?

4 MR. ROMNEY: No, we have -- I have a copy of that,
5 if that's okay with Your Honor.

6 JUDGE STEINBERG: Sure. I mean, why don't we ask
7 Mr. Kellett. Why don't you examine the book and see if
8 that's okay, that there aren't answers written in the
9 margins of the book.

10 (Laughter.)

11 MR. ROMNEY: Wish I had.

12 JUDGE STEINBERG: Well, of course, it might be in
13 the type of ink that can only be seen through the glasses
14 that Mr. Black is wearing.

15 MR. ROMNEY: That's correct.

16 (Laughter.)

17 MR. SCHWANINGER: Your Honor has been watching
18 some good late night television.

19 JUDGE STEINBERG: I don't try to think of these
20 two.

21 (Laughter.)

22 JUDGE STEINBERG: Okay, let the record reflect
23 that the witness is reading rough Section 90.313 of the
24 current Commission rules.

25 (Witness reviews document.)

1 JUDGE STEINBERG: Okay, he's finished reading the
2 rule.

3 BY MR. KNOWLES-KELLETT:

4 Q Does that refresh your recollection in any way
5 regarding a Commission rule that paralleled the PCIA policy?

6 A I think this fairly well parallels the PCIA
7 policy.

8 JUDGE STEINBERG: Well, just tell me what your
9 interpretation of the -- tell me what you think it says in
10 language that I can understand.

11 THE WITNESS: In essence what this says in regard
12 to the issue of today, and I'll quote this, "A licensee will
13 be required to show that an assigned frequency pairs at full
14 capacity before it may be assigned a second or additional
15 frequency pair."

16 So that means that if you apply for one frequency
17 or channel, then you have to show that you have constructed
18 and loaded the number of units on that frequency or channel
19 before you can apply for a second or a third channel, et
20 cetera.

21 JUDGE STEINBERG: Okay.

22 THE WITNESS: And I don't think that -- I don't
23 believe that that's changed that much in the last several
24 years.

25 Now, there are a couple of pieces in here that may